

## § 1437.1

1437.404 Information collection requirements under the Paperwork Reduction Act; OMB control number.

AUTHORITY: 15 U.S.C. 714 *et seq.*; and 7 U.S.C. 7333.

SOURCE: 67 FR 12448, Mar. 19, 2002, unless otherwise noted.

### Subpart A—General Provisions

#### § 1437.1 Applicability.

(a) The Noninsured Crop Disaster Assistance Program (NAP) is intended to provide eligible producers of eligible crops coverage equivalent to the catastrophic risk protection level of crop insurance. NAP is designed to help reduce production risks faced by producers of commercial crops or other agricultural commodities. NAP will reduce financial losses that occur when natural disasters cause a catastrophic loss of production or where producers are prevented from planting an eligible crop.

(b) The provisions contained in this part are applicable to eligible producers and eligible crops for which catastrophic coverage under section 508(b) the Federal Crop Insurance Act (7 U.S.C. 1508(b)), as amended, or its successors, is not available.

(c) The regulations of this part are applicable to the 2001 and subsequent crop years.

#### § 1437.2 Administration.

(a) NAP is administered under the general supervision of the Executive Vice-President, CCC (who also serves as Administrator, Farm Service Agency), and shall be carried out by State and county FSA committees (State and county committees).

(b) State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations of this part.

(c) The State committee shall take any action required by the regulations of this part that the county committee has not taken. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee that is not in accordance with the regulations of this part; or

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(2) Require a county committee to withhold taking any action that is not in accordance with this part.

(d) No provision or delegation to a State or county committee shall preclude the Executive Vice-President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

(e) The Deputy Administrator may authorize State and county committees to waive or modify deadlines (except statutory deadlines) in cases where lateness to file does not adversely affect operation of the program.

#### § 1437.3 Definitions.

The definitions and program parameters set out in this section shall be applicable for all purposes of administering the Noninsured Crop Disaster Assistance Program provided for in this part. Although the terms defined in part 718 of this title and part 1400 of this chapter shall also be applicable, the definitions set forth in this section shall govern for all purposes of administering the Program.

*Actual Production History (APH)* means the farm's operative production history established in accordance with subpart B of this part.

*Administrative county office* means the county FSA office designated to make determinations, handle official records, and issue payments for the producer in accordance with 7 CFR part 718.

*Animal Unit Days (AUD)* means an expression of expected or actual stocking rate for pasture or forage.

*Application Closing Date* means the last date, as determined by CCC, producers can submit an application for coverage for noninsured crops for the specified crop year.

*Catastrophic coverage* means a catastrophic risk protection (CAT) level of crop insurance available in accordance with section 508(b) of the Federal Crop Insurance Act, as amended.

*Catastrophic loss* means—

(1) Loss, as the result of an eligible cause of loss, that entails as determined by CCC:

(i) Prevented planting of greater than 35 percent of the intended crop acreage;

a yield loss of greater than 50 percent of the approved yield; or value loss of greater than 50 percent of the pre-disaster value; or

(ii) AUD loss of greater than 50 percent of the expected AUD.

(2) The quantity will not be reduced for any quality consideration unless a zero value is established.

*Controlled environment* means, with respect to those crops for which a controlled environment is expected to be provided, including but not limited to ornamental nursery, aquaculture (including ornamental fish), and floriculture, an environment in which everything that can practicably be controlled with structures, facilities, growing media (including but not limited to water, soil, or nutrients) by the producer, is in fact controlled by the producer.

*Crop year* means the calendar year in which the crop is normally harvested or in which the majority of the crop would have been harvested. For value loss and other specific commodities, see the applicable subpart and section of this part. For crops for which catastrophic coverage is available, the crop year will be as defined by such coverage.

*Fiber* means a slender and greatly elongated natural plant filament, e.g. cotton, flax, etc. used in manufacturing, as determined by CCC.

*Final planting date* means the date which marks the end of the planting period for the crop and in particular the last day, as determined by CCC, the crop can be planted to reasonably expect to achieve 100 percent of the expected yield in the intended harvest year or planting period.

*Food* means a material consisting essentially of protein, carbohydrates, and fat used in the body to sustain growth, repair, and vital processes including the crops used for the preparation of food, as determined by CCC.

*Good farming practices* means the cultural practices generally used for the crop to make normal progress toward maturity and produce at least the individual unit approved yield. These practices are normally those recognized by Cooperative State Research, Education, and Extension Service as com-

patible with agronomic and weather conditions.

*Harvested* means the producer has removed the crop from the field by hand, mechanically, or by grazing of livestock. The crop is considered harvested once it is removed from the field and placed in a truck or other conveyance or is consumed through the act of grazing. Crops normally placed in a truck or other conveyance and taken off the crop acreage, such as hay are considered harvested when in the bale, whether removed from the field or not.

*Industrial crop* means a commercial crop, or other agricultural commodity utilized in manufacturing. Industrial crops include castor beans, chia, crambe, crotalaria, cuphea, guar, guayule, hesperaloe, kenaf, lesquerella, meadowfoam, milkweed, plantago, ovato, sesame and other crops specifically designated by CCC.

*Intended Use* means for a crop or a commodity, the end use for which it is grown and produced.

*Multiple planted* means the same crop is planted and harvested during two or more distinct planting periods in the same crop year, as determined by CCC.

*Normal harvest date* means the date harvest of the crop is normally completed in the administrative county, as determined by CCC.

*Seed crop* means propagation stock commercially produced for sale as seed stock for eligible crops.

*Seeded forage* means forage on acreage mechanically seeded with forage vegetation at regular intervals, at least every 7 years, in accordance with good farming practices.

*T-Yield* means the yield which is based on the county expected yield of the crop for the crop year and is used on an adjusted or unadjusted basis to calculate the approved yield for crops covered under the NAP when less than four years of actual, assigned, or appraised yields are available in the APH data base.

*Transitional yield* means an estimated yield of that name provided in the Federal Crop Insurance Corporation (FCIC) actuarial table which is used to calculate an average/approved APH yield for crops insured under the Federal Crop Insurance Act when less than four

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years of actual, temporary, and/or assigned yields are available on a crop by county basis.

##### § 1437.4 Eligibility.

(a) Noninsured crop disaster assistance for low yield or prevented planting is available to producers of eligible commercial crops or other agricultural commodities, as determined by CCC, for which:

(1) Catastrophic coverage is not available; or

(2) Catastrophic coverage is available in the administrative county, however, the eligible commercial crop or other agricultural commodity is affected by an eligible cause of loss, as determined by CCC, that is not covered by the catastrophic coverage.

(b) Noninsured crop disaster assistance for low yields or prevented planting is available only when loss of the crop occurs as a result of an eligible cause of loss, as determined by CCC.

(c) When other conditions are met, NAP may be available for an eligible loss of:

(1) Any commercial crop grown for food, excluding livestock and their by-products;

(2) Any commercial crop planted and grown for livestock consumption, including but not limited to grain and forage crops; except for the 2001 and preceding crop years assistance for forage produced on Federal- and State-owned lands is available only for seeded forage.

(3) Any commercial crop grown for fiber, excluding trees grown for wood, paper, or pulp products; and

(4) Any commercial production of:

(i) Aquacultural species (including ornamental fish);

(ii) Floricultural crops;

(iii) Ornamental nursery plants;

(iv) Christmas tree crops;

(v) Turfgrass sod;

(vi) Industrial crops;

(vii) Seed crops; and

(viii) Sea grass and sea oats.

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##### § 1437.5 Coverage period.

(a) The coverage period is the time during which coverage is available

against loss of production of the eligible crop as a result of natural disaster.

(b) The coverage period for annual crops, including annual forage crops, begins the later of 30 calendar days after the date the application for coverage is filed; or the date the crop is planted, not to exceed the final planting date; and ends on the earlier of the date harvest is complete; the normal harvest date of the crop in the area; the date the crop is abandoned; or the date the crop is destroyed.

(c) Except as otherwise specified in this part, the coverage period for biennial and perennial crops begins 30 calendar days after the application closing date; and ends as determined by CCC.

(d) Except as otherwise specified in this part, the coverage period for value loss crops, including ornamental nursery, aquaculture, Christmas tree crops, ginseng, and turfgrass sod; and other eligible crops, including floriculture and mushrooms begins 30 calendar days after the application closing date; and ends the last day of the crop year, as determined by CCC.

(e) The coverage period for honey begins 30 calendar days after the application closing date and ends the last day of the crop year, as determined by CCC.

(f) The coverage period for maple sap begins 30 calendar days after the application closing date and ends on the earlier of the date harvest is complete; or the normal harvest date.

(g) For biennial and perennial forage crops the coverage period begins the later of 30 calendar days after the application closing date; for first year seedlings, the date the crop was planted; or the date following the normal harvest date. The coverage ends on the normal harvest date of the subsequent year.

##### § 1437.6 Application for coverage and service fee.

(a) With respect to each crop, commodity or acreage, producers must file an application for coverage under this part no later than the application closing date.

(b) The service fee must be paid at the time of the application. The service fee is \$100 per crop per administrative